

# PLANNING COMMISSION MINUTES

November 8, 2000

## CALL TO ORDER:

Chairman Dan Maks called the meeting to order at 7:02 p.m. in the Beaverton City Hall Council Chambers at 4755 SW Griffith Drive.

## ROLL CALL:

Present were Chairman Dan Maks, Planning Commissioners Sharon Dunham, Chuck Heckman, Eric Johansen, Brian Lynott and Vlad Voytilla. Planning Commissioner Bob Barnard was excused.

Principal Planner Hal Bergsma, Associate Planner Jeff Salvon, Associate Planner Veronica Smith, Assistant City Attorney Ted Naemura and Recording Secretary Sandra Pearson represented staff.

The meeting was called to order by Chairman Maks, who presented the format for the meeting.

## VISITORS:

Chairman Maks asked if there were any visitors in the audience wishing to address the Commission on any non-agenda issue or item. There were none.

## STAFF COMMUNICATIONS:

Principal Planner Hal Bergsma discussed the agenda, including a continuance of CPA 2000-0005 -- Economy Element of the Comprehensive Plan; CPA 2000-0009 -- Housing Element of the Comprehensive Plan; CPA 2000-0010/TA 2000-0009 -- Environmental Quality and Safety Element of the Comprehensive Plan and Portions of the Development Code; and CPA 2000-0011/TA 2000-0008 -- Natural, Cultural, Historic, Scenic, Open Space and Energy Resources Element of the Comprehensive Plan and Portions of the Development Code. Observing that the Staff Reports for both the Housing Element and Environmental Quality and Safety Element had not been available the required thirty days prior to the Public Hearing, he recommended a continuance of both of these Public Hearings until December 13, 2000.

Chairman Maks referred to Mr. Bergsma's statement last week indicating that Periodic Review is nearly complete.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46

Mr. Bergsma advised Chairman Maks that only a few loose ends remain for completion of Periodic Review. For example, it would still be necessary to complete the Merlo Station Area Plan Project, adding that he anticipates that this would occur next spring sometime.

Chairman Maks questioned whether staff has formulated an opinion regarding all of the work that has been completed over the past few years, specifically pertaining to Measure 7.

Mr. Bergsma suggested that Assistant City Attorney Naemura might be better qualified to respond to this question.

Chairman Maks questioned whether the legality of Measure 7 would be challenged.

Assistant City Attorney Ted Naemura advised Chairman Maks that it is too early to formulate a strategy, adding that he anticipates a maximum amount of communication and information-sharing between government entities who are affected by this action.

Mr. Bergsma noted that some believe Measure 7 involves more than one subject, which is unconstitutional. Therefore, there is a high probability that it will be appealed, adding that without a stay of implementation by the courts, this ballot measure will be effective in thirty days.

Chairman Maks expressed concern with interpretations that this Ballot Measure is retroactive.

Mr. Naemura advised Chairman Maks that the City of Beaverton would definitely need to be aware of this feature.

Chairman Maks requested that staff and the City Attorney keep the Planning Commissioners updated on this issue, noting that it is possible that they might have their Wednesday nights free.

Commissioner Heckman pointed out that Governor Kitzhaber has instructed the Attorney General to meet with him to address this issue.

Chairman Maks observed that this action has the potential to reverse everything the Planning Commission has accomplished since sometime in the 1970's.

Mr. Naemura advised Chairman Maks that there are several interpretations and implications associated with this issue, emphasizing that the language is not helpful.

1 **OLD BUSINESS:**

2  
3 **CONTINUANCES:**

4  
5 Chairman Maks opened the Public Hearing and read the format for Public  
6 Hearings. There were no disqualifications of the Planning Commission members.  
7 No one in the audience challenged the right of any Commissioner to hear any of  
8 the agenda items, to participate in the hearing or requested that the hearing be  
9 postponed to a later date. He asked if there were any ex parte contact, conflict of  
10 interest or disqualifications in any of the hearings on the agenda. There was no  
11 response.

12  
13 **A. CPA 2000-0005 -- ECONOMY ELEMENT OF THE COMPREHENSIVE**  
14 **PLAN**

15 (Continued from November 1, 2000)

16 The proposed amendment responds to State Periodic Review Requirements,  
17 addresses Statewide Planning Goal 9 (Economic Development Needs) and would  
18 add a new Economy Element to the Comprehensive Plan. The function of this  
19 element is to establish a base of goals and policies necessary in implementing  
20 Beaverton's Economic Development Strategic Plan. Both map and text changes  
21 will be included in the proposal.

22  
23 Associate Planner Jeff Salvon described a Memorandum he had distributed  
24 addressing the two issues that had concerned the Planning Commissioners at the  
25 first Public Hearing. He noted that by creating higher-value industrial or  
26 commercial properties as a base rate, it might be possible to adjust the tax rate.  
27 He referred to a spreadsheet he had prepared and discussed the financial effect of  
28 Measure 50. Concluding, he offered to respond to any comments or questions.

29  
30 Chairman Maks questioned whether the Economic Element provides for periodic  
31 determination of whether the Transportation Plan is adequate.

32  
33 Mr. Salvon advised Chairman Maks that there is no provision for this.

34  
35 **PUBLIC TESTIMONY:**

36  
37 On question, no member of the public appeared to testify at this time.

38  
39 On question, the Assistant City Attorney had no comments at this time.

40  
41 The public section of the Public Hearing was closed.

42  
43 On question, Commissioners Heckman, Johansen, Voytilla, Lynott and Dunham  
44 all expressed their support of this application.  
45

Chairman Maks expressed his opinion that staff had done a good job on the Staff Report, noting that his questions had been addressed. Observing that he still has concerns with the transportation system, increased density and increased production, he expressed his support of the application.

Commissioner Heckman **MOVED** and Commissioner Johansen **SECONDED** a motion to approve CPA 2000-0005 – Economy Element of the Comprehensive Plan, based upon the testimony, reports and exhibits presented during the public hearing on the matter and upon the background facts, findings and conclusions found in the Staff Report dated November 1, 2000 and the Memorandum dated November 8, 2000.

Motion **CARRIED**, unanimously.

### **NEW BUSINESS:**

#### **PUBLIC HEARINGS:**

##### **A. CPA2000-0009 - HOUSING ELEMENT OF THE COMPREHENSIVE PLAN**

The proposed amendment responds to State Periodic Review Requirements, addresses Statewide Planning Goal 10 (Housing Needs) and proposes a new Housing Element for the Comprehensive Plan. Adoption of this element will establish a base of goals, policies, and actions necessary to address Beaverton's housing needs.

Mr. Salvon discussed several Memorandums he had distributed, observing that staff is requesting a continuance because the Staff Report was not available the required thirty days prior to this Public Hearing. He pointed out that staff has been delaying this proposal in order to provide Metro with sufficient time to adopt its Title 7 provisions, which address affordable housing.

#### **PUBLIC TESTIMONY:**

On question, no member of the public appeared to testify at this time.

Commissioner Johansen **MOVED** and Commissioner Voytilla **SECONDED** a motion to continue CPA 2000-0009 -- Housing Element of the Comprehensive Plan, to a date certain of December 13, 2000.

Motion **CARRIED**, unanimously.

##### **B. CPA2000-0010 AND TA2000-0009 - ENVIRONMENTAL QUALITY AND SAFETY ELEMENT OF THE COMPREHENSIVE PLAN, AND PORTIONS OF THE DEVELOPMENT CODE**

1 The proposed amendments would revise the Comprehensive Plan, Chapter 8  
2 Environmental Quality and Safety with policy updates to sections on air  
3 quality, and natural hazards associated with potential earthquakes, flooding,  
4 or landslides. Additional proposed text revisions are minor edits, or non-  
5 substantive changes, and reflect the organizational restructuring of the  
6 Comprehensive Plan, Chapter 8 element. To be consistent, sections of the  
7 Development Code may require modifications. The proposed amendments  
8 respond to State Periodic Review requirements and address Statewide  
9 Planning Goal 6 (Air, Water and Land Resources Quality), and Goal 7  
10 (Areas Subject to Natural Disasters and Hazards).

11  
12 Observing that the application is only actually for a Comprehensive Plan  
13 Amendment, Associate Planner Veronica Smith explained that although the  
14 agenda includes both CPA 2000-00011 and TA 2000-0008, staff had  
15 originally set up the files when they were not certain whether a text  
16 amendment would be included.

17  
18 Commissioner Lynott **MOVED** and Commissioner Voytilla **SECONDED** a  
19 motion to continue CPA 2000-0010 -- Environmental Quality and Safety  
20 Element of the Comprehensive Plan and Portions of the Development Code,  
21 to a date certain of December 13, 2000.

22  
23 Motion **CARRIED**, unanimously.

24  
25 **C. CPA2000-0011 AND TA2000-0008 - NATURAL, CULTURAL,**  
26 **HISTORIC, SCENIC, OPEN SPACE AND ENERGY RESOURCES**  
27 **ELEMENT OF THE COMPREHENSIVE PLAN, AND PORTIONS**  
28 **OF THE DEVELOPMENT CODE**

29 The proposed amendments would revise natural resources protection policies  
30 for 1. Groundwater, to establish guidelines for future development of a City  
31 wellhead protection program, and 2. Energy, to include a request to remove  
32 the inactive Sexton Mountain and Progress Quarry aggregate sites from the  
33 City's natural resource inventory. Other proposed text revisions are minor  
34 edits, or non-substantive changes, and reflect the organizational restructuring  
35 of the Comprehensive Plan, Chapter 7 Natural, Cultural, Historic, Scenic,  
36 Open Space and Energy Resources. To be consistent, sections of the  
37 Development Code may require modifications. The proposed amendments  
38 respond to State Periodic Review requirements and address Statewide  
39 Planning Goal 5 (Open Space, Scenic and Historic Areas, and Natural  
40 Resources).

41  
42 Ms. Smith presented the Staff Report, observing that this document had not  
43 been available to the public the required thirty days prior to the Public  
44 Hearing and that staff is recommending a continuance. She discussed  
45 several highlights of the Staff Report, noting that the scope of the  
46 notification previously had been limited to the riparian areas. Observing that

1 this is a City-wide notice, she explained that this chapter is being rewritten,  
2 subject to the review of the Planning Commission. She noted that the title of  
3 the Comprehensive Plan Amendment is changing to reflect Goal 5 resources,  
4 including the elimination of open space; parks and recreation; and trails, bike  
5 and pedestrian connections; which do not belong in this section.  
6 Concluding, she offered to respond to any comments or questions.

7

8 Chairman Maks referred to the strike-through section of the Staff Report,  
9 page 3, specifically the 7.1.1 goal, expressing his opinion that it should  
10 provide some clarification that within the Urban Growth Boundary, the  
11 intent is for development to occur. He observed that while it is necessary to  
12 provide protection to resources, he does not agree with the complete  
13 elimination of this goal. He discussed page 17, item c, specifically where  
14 development is constrained due to wetland protection regulations, a hardship  
15 variance may be granted if approval criteria are met. He mentioned that a  
16 developer he knows had informed him that a developer always looks for  
17 code language that would indicate the possibility of a hardship variance.

18

19 Commissioner Heckman referred to the issue of solar energy, which is  
20 included within the element, questioning the necessity of including this type  
21 of energy which is not being utilized.

22

23 Ms. Smith advised Commissioner Heckman that the overall policy is to  
24 review energy in terms of all savings and tools available, emphasizing that  
25 the goal is to reduce utilization of the non-renewable energy resources.

26

27 Commissioner Heckman observed that he would rather consider the  
28 possibility of utilizing hybrid automobiles, emphasizing that this idea has the  
29 potential to preserve a great deal of fuel and resources.

30

31 Ms. Smith informed Commissioner Heckman that this issue could be  
32 addressed in Periodic Review if it is included within the planning goals by  
33 the State of Oregon.

34

35 Commissioner Heckman observed that one of his quirks involves issues that  
36 don't work and are still discussed fifteen years later.

37

38 Commissioner Heckman discussed the term "scenic energy" and  
39 groundwater wellhead protection.

40

1 Commissioner Voytilla questioned the availability of any studies to  
2 determine the availability of any other aggregate resources available within  
3 the City of Beaverton.

4

5 Commissioner Voytilla questioned the availability of any studies to  
6 determine the availability of any other aggregate resources available within  
7 the City of Beaverton.

8

9 Ms. Smith advised Commissioner Voytilla that she is aware of no such  
10 resources.

11

12 Commissioner Voytilla questioned whether surface water is considered a  
13 resource.

14

15 Ms. Smith requested clarification of whether Commissioner Voytilla is  
16 referring to riparian streams, wetlands or some other type of surface water.

17

18 Commissioner Voytilla commented that some other jurisdictions consider  
19 anything that falls out of the sky to be surface water, observing that he is  
20 specifically questioning whether there could be actual ownership of this  
21 surface water. He discussed the management and protection of surface water  
22 before it even reaches the wetlands and stream corridors.

23

24 Commissioner Dunham referred to the strikethrough copy, line 28 of page  
25 16, specifically the reference to the City of Beaverton providing assistance to  
26 property owners in maintenance issues.

27

28 Ms. Smith advised Commissioner Dunham that the City of Beaverton should  
29 provide lists, information and education.

30

31 Commissioner Dunham referred to page 18 of the strikethrough copy,  
32 specifically Tualatin Hills Parks and Recreation District's (THPRD)  
33 construction of pathways in a safe manner. She questioned whether this  
34 would actually preclude leaving areas in a more natural state.

35

36 Ms. Smith pointed out that staff is recommending the deletion of this  
37 section, emphasizing that this issue is more appropriately addressed within  
38 the Transportation Plan.

Commissioner Dunham noted that while solar energy is not en vogue at this particular time, eventually it could become an issue again and should remain within this plan.

**PUBLIC TESTIMONY:**

On question, no member of the public appeared to testify at this time.

On question, the Assistant City Attorney had no comments at this time.

Commissioner Lynott **MOVED** and Commissioner Heckman **SECONDED** a motion to continue CPA 2000-0011 -- Natural, Cultural, Historic, Scenic, Open Space and Energy Resources Element of the Comprehensive Plan and Portions of the Development Code, to a date certain of November 29, 2000.

Motion **CARRIED**, unanimously.

Commissioner Lynott **MOVED** and Commissioner Heckman **SECONDED** a motion to continue TA 2000-0008 -- Natural, Cultural, Historic, Scenic, Open Space and Energy Resources Element of the Comprehensive Plan and Portions of the Development Code, to a date certain of November 29, 2000.

Motion **CARRIED**, unanimously.

**MISCELLANEOUS BUSINESS:**

Observing that he had seen former Planning Commissioner Donovan, who is currently working down south, Chairman Maks mentioned that he had said to say hello and that he misses the Wednesday evening meetings.

The meeting adjourned at 8:28 p.m.